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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,555	03/19/2004	Richard R. Rabbat	073338.0151 (03-52020) FLA	7448
5073 7590 10/05/2009 BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980				
EXAMINER TRAN, PHUC H				
ART UNIT 2416		PAPER NUMBER		
NOTIFICATION DATE 10/05/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/804,555

Applicant(s)

RABBAT ET AL.

Examiner

PHUC H. TRAN

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-31 is/are allowed.
- 6) ☒ Claim(s) 1,6-8,13-15,20-22,27 and 28 is/are rejected.
- 7) ☒ Claim(s) 2-5,9-12,16-19 and 23-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-8, 13-15, 20-22, and 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Olshansky et al. (U.S. Patent No. 5418785).

- With respect to claims 1, 15, and 22, Olshansky teaches an optical node (e.g. stations in fig. 1) comprising: a data interface operable to receive data for transmission to a plurality of destinations (e.g. Fig. 3 with RX and TX); a buffer operable to store the data (e.g. buffer in fig. 7); a transmitting unit operable to couple to an optical transmission medium having a plurality of data channels and to selectively transmit optical signals on the data channels (e.g. block 722 in Fig. 7 transmit data to channels); and a controller operable to receive a token authorizing transmission on one of the data channels (e.g. the control manager 710 in Fig. 7), to determine a transmission allocation, wherein the transmission allocation represents an amount of time that the authorized data channel may be utilized to transmit the data (e.g. col. 3, lines 5-24 where the node determines the timeslot for transmit; the timeslot considers as the amount of time that authorized data to transmit), to determine a destination allocation (e.g. a node receives a token with destination address field as in col. 2, lines 65-66), wherein the destination allocation

represents a proportion of the transmission allocation that may be utilized to transmit the data to a particular destination (e.g. as in fig. 2 shows the proportion of the transmission allocation), and to transmit the data on the authorized data channel in accordance with the transmission allocation and the destination allocation (e.g. when the node receives the token receives and determine the address; see col. 3, lines 1-4).

- With respect to claims 6, 13, 20, and 27, Olshansky teaches wherein the buffer is further operable to store the data in a plurality of virtual queues, each virtual queue associated with a unique destination node, and wherein the controller is further operable to utilize a weighted round robin scheduler to determine which virtual queue to service (the buffer in Fig. 7 for store data and it is inherently to know that there are plurality queues in it).

- With respect to claims 7, 14, 21 and 28, Olshansky teaches wherein the controller is further operable to generate a transmission control message identifying a destination node and the authorized data channel, to communicate the transmission control message to a next node, and to communicate the token to the next node (e.g. primary node with network manager).

- With respect to claim 8, Olshansky teaches an optical communication system comprising: a plurality of optical communication nodes (e.g. in Fig. 1 there are plurality nodes); optical transmission media interconnecting the optical communication nodes, the optical transmission media having a plurality of data channels (e.g. links in Fig. 1); and a plurality of logical tokens corresponding to the data channels (e.g. the tokens in Fig. 2); wherein each of the optical communication nodes is operable to: receive data for transmission to a destination one of the optical communication nodes (e.g. Fig. 7 block 714 receives data for transmitting to network); receive one of the logical tokens (e.g. the nodes receive token from control channel);

identify one of the data channels associated with the logical token (col. 12, lines 63-65); determine a transmission allocation, wherein the transmission allocation represents the amount of time that the identified data channel may be utilized to transmit the data (see col. 3, lines 5-24; col. 12, lines 67-68); determine a destination allocation, wherein the destination allocation represents a proportion of the transmission allocation that may be utilized to transmit the data to a particular destination (col. 2, lines 65-68 to col. 3, lines 1-4); and transmit the data to the destination optical communication node using the identified data channel in accordance with the transmission allocation and the destination allocation (col. 3, lines 2-4).

Allowable Subject Matter

3. Claims 29-31 are allowed.
4. Claims 2-5, 9-12, 16-19, and 23-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

* Remind: the copending application has been allowed, Applicants need to file a terminal disclaimer.

5. Applicant's arguments filed 6/4/2009 have been fully considered but they are not persuasive.

In response to Applicant's argument that Olshansky fails to disclose "to determine a destination allocation..." in page 13 or remark, Examiner respectfully disagrees. Olshansky discloses the node determines the transmission allocation and destination as rejected above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571)272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

//PHUC H TRAN/
Primary Examiner, Art Unit 2416